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APPLICATION NO.	F.	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,667	07/02/2003		Richard L. Beard	600-33-DIV	3474
36185	7590	09/14/2004	EXAMINER		INER
GABOR L. 8141 E. KAI			MCKENZIE, THOMAS C		
SUITE 112	SEK BL	VD.		ART UNIT	PAPER NUMBER
ANAHEIM HILLS, CA 92808				1624	·
				DATE MAILED: 09/14/2004	1

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/612,667	BEARD ET AL.					
Office Action Summary	Examiner	Art Unit					
	Thomas McKenzie, Ph.D.	1624					
The MAILING DATE of this communication a	1						
Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a re - If NO period for reply is specified above, the maximum statutory perior - Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).	1. 1.136(a). In no event, however, may a reple sply within the statutory minimum of thirty (but will apply and will expire SIX (6) MONThute. cause the application to become ABAN	ly be timely filed 30) days will be considered timely. IS from the mailing date of this communication. NDONED (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 02	July 2003.						
·	nis action is non-final.						
3) Since this application is in condition for allow	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under	Ex parte Quayle, 1935 C.D.	11, 453 O.G. 213.					
Disposition of Claims							
4)⊠ Claim(s) <u>1-10,14,15 and 28-33</u> is/are pendin	g in the application.						
,	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) <u>1-10, 14, 15, and 28-33</u> are subjec	t to restriction and/or election	requirement.					
Application Papers							
9) The specification is objected to by the Examin	ner						
10) The drawing(s) filed on is/are: a) a		the Examiner.					
Applicant may not request that any objection to the							
Replacement drawing sheet(s) including the corre							
11) The oath or declaration is objected to by the							
·							
Priority under 35 U.S.C. § 119		42() ()					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority docume	ents have been received. ents have been received in Appriority documents have been re	olication No					
* See the attached detailed Office action for a li	·	ceived.					
Attachment(s)	4) Interview Sur	nmary (PTO-413)					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/I	Mail Date					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/0 Paper No(s)/Mail Date	5) Notice of Info 6) Other:	ormal Patent Application (PTO-152) .					

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DETAILED ACTION

1. This action is in response to an application filed on 3/27/00. There are eighteen claims pending. Claims 1-10, 14, 15, and 28-33 are compound claims. The application concerns some dihydronaphthylene compounds.

Election/Restrictions

- 2. Consistent with the restriction made in parent application 09/533,680, restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 10, 14, 15, 28-33, and parts of claims 1-9, drawn to compounds where Y is pyridyl, classified in class 546, subclass 364, among others.
 - II. Claims parts of 1-9, drawn to compounds where Y is thiophenyl, classified in class 549, subclass 68, among others.
 - III. Claims parts of 1-9, drawn to compounds where Y is furanyl, classified in class 549, subclass 480, among others.
 - IV. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is pyridazinyl, classified in class 544, subclass 238.
 - V. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is pyrazinyl, classified in class 544, subclass 322.
 - VI. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is pyrazinyl, classified in class 544, subclass 405.

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- VII. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is thiazolyl, classified in class 548, subclass 192.
- VIII. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is oxazolyl, classified in class 548, subclass 234.
- IX. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is imidazolyl, classified in class 548, subclass 311.4.
- X. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is pyrazolyl, classified in class 548, subclass 364.4.
- XI. Claims parts of 1, 2, and 4-9, drawn to compounds where Y is naphthyl, classified in class 564, subclass 429, among others.
- 3. Claim 3 link(s) inventions I-III. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claim 3. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional

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statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

- Claims 1, 2, and 4-9 link(s) inventions I-XI. The restriction requirement 4. among the linked inventions is subject to the nonallowance of the linking claim(s), claims 1, 2, and 4-9. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.
- 5. The inventions are distinct, each from the other because of the following reasons: the core of the structure given in claim 1 is the ring Y. This aryl or

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heterocyclic ring is a mandatory feature and ranges in size from five to ten atoms with multiple possible heteroatoms. These multiple claimed rings are chemically non-equivalent and are not art-recognized as sharing the same biological properties. Inventions I-XI have acquired a separate status in the art as shown by their different classification, thus the patent search required for Group I is not coextensive with that required for Groups II-XI. The basic names of these heterocycles differ, thus the literature search for these various species will be divergent. Because these inventions are distinct for the reasons given above, restriction for examination purposes as indicated is proper.

- 6. Should Applicants traverse the restriction requirement on the grounds that the different core rings are not patentably distinguishable, Applicants should identify such evidence now of record or submit any such evidence that shows the groups to be obvious variants. Such evidence may be used in a rejection under 35 USC 103(a) if the Examiner finds any of the Groups unpatentable over the prior art.
- 7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

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8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

- 9. Information regarding the status of an application should be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). Please direct general inquiries to the receptionist whose telephone number is (703) 308-1235.
- 10. Please direct any inquiry concerning this communication or earlier communications from the Examiner to Thomas C McKenzie, Ph. D. whose telephone number is (571) 272-0670. The FAX number for amendments is (703) 872-9306. The PTO presently encourages all applicants to communicate by FAX.

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The Examiner is available from 8:30 to 5:30, Monday through Friday. If attempts to reach the Examiner by telephone are unsuccessful, please contact James O. Wilson, acting SPE of Art Unit 1624, at (571)-272-0661.

Thomas C. McKenzie, Pl

Patent Examiner Art Unit 1624

(703) 272-0670

TCMcK/me